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*Washington, Friday, July 30, 1937*

## WAR DEPARTMENT.

### Special Regulations to Govern the Operation of the Drawbridge of the New York Central Railroad Bridge Across Peekskill (Annsville) Creek, New York

THE LAW

The River and Harbor Act of August 18, 1894, contains the following section:

Sec. 5. That it shall be the duty of all persons owning, operating, and tending the drawbridges now built, or which may hereafter be built across the navigable rivers and other waters of the United States, to open, or cause to be opened, the draws of such bridges under such rules and regulations as in the opinion of the Secretary of War the public interests require to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law. Every such person who shall willfully fail or refuse to open, or cause to be opened, the draw of any such bridge for the passage of a boat or boats, or who shall unreasonably delay the opening of said draw after reasonable signal shall have been given, as provided in such regulations, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than two thousand dollars nor less than one thousand dollars, or by imprisonment (in the case of a natural person) for not exceeding one year, or by both such fine and imprisonment, in the discretion of the court: *Provided*, That the proper action to enforce the provisions of this section may be commenced before any commissioner, judge, or court of the United States, and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States: *Provided further*, That whenever, in the opinion of the Secretary of War, the public interests require it, he may make rules and regulations to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law, and any violation thereof shall be punished as hereinbefore provided.

THE REGULATIONS

In pursuance of the foregoing law, the following special regulations are prescribed to govern the operation of the drawbridge crossing at the mouth of Peekskill (Annsville) Creek, one-half mile northwest of Peekskill, New York.

1. The owner of or agency controlling the bridge will not be required to keep a draw tender in constant attendance at the bridge.

2. Whenever a vessel unable to pass under the closed bridge desires to pass through the draw, at least 96 hours' advance notice of the time the opening is required shall be given, by telephone or otherwise, to the authorized representative of the owner of, or agency controlling, the bridge.

3. Upon receipt of such notice, the authorized representative of the owner of or agency controlling the bridge will arrange for the prompt opening of the draw span in accordance therewith. The opening will be between the hours of 11:00 A. M. and 2:00 P. M., except for vessels owned, controlled or employed by the United States Government, or by the State of New York for whom the bridge shall be opened at any time during the day or night upon 96 hours' advance notice.

4. The owner of, or agency controlling the bridge, shall keep conspicuously posted on both the upstream and downstream sides of the bridge in a manner that it can easily be read at any time a copy of these regulations together with a notice stating exactly how the representative specified in paragraph 2 may be reached.

5. The operating machinery of the draw shall be maintained in a serviceable condition, and the draw opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

6. These regulations shall take effect and be in force on and after the date of approval hereof and the regulations approved March 29, 1921, to govern the above named bridge are hereby revoked.

Approved July 20, 1937.

[SEAL] HARRY H. WOODRING,
*Secretary of War.*

[F. R. Doc. 37-2406; Filed, July 29, 1937; 9:56 a. m.]

## DEPARTMENT OF AGRICULTURE.

### Agricultural Adjustment Administration.

### Determination of the Secretary of Agriculture With Respect to a Proposed Order, as Amended, Regulating the Handling of Milk in the Greater Boston, Massachusetts, Marketing Area

Whereas, the Secretary of Agriculture, pursuant to the Agricultural Marketing Agreement Act of 1937, which reenacted and further amended Public, No. 10, 73d Congress, hereinafter called the act, having reason to believe that the issuance of an amendment to a tentatively approved marketing agreement and to the order theretofore issued with respect to the handling of milk in the Greater Boston, Massachusetts, Marketing Area would tend to effectuate the declared policy of the act, gave, on the 24th day of June, 1937, notice of hearings [1] to be held on the 30th day of June, 1937, at St. Johnsbury, Vermont, on the 1st day of July, 1937, at Boston, Massachusetts, and on the 2nd day of July, 1937, at Augusta, Maine, on a proposed amendment to the tentatively approved marketing agreement and to the order theretofore issued regulating the handling of milk in the Greater Boston, Massachusetts, Marketing Area, at which times and places all interested parties were afforded an opportunity to be heard on the proposed amendment; and

Whereas, after such hearings and after the tentative approval by the Secretary on the 10th day of July, 1937, of an amendment to the tentatively approved marketing agreement, handlers of more than 50 percentum of the volume of milk covered by such order, as amended, which is produced or marketed within the Greater Boston, Massachu-

[1] 2 F. R. 1313 (DI).

FEDERAL REGISTER

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setts, Marketing Area, refused or failed to sign such marketing agreement, as amended, relating to milk:

Now, therefore, the Secretary of Agriculture, by virtue of the authority vested in him by the act, does hereby determine:

1. That the refusal or failure of said handlers to sign the said marketing agreement, as amended, tends to prevent the effectuation of the declared policy of the act; and

2. That the issuance of the amendment to the order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk in said area; and

3. That the issuance of the amendment to the order is approved or favored by over 70 per centum of the producers who, during the month of May, 1937, said month being here and now determined by the Secretary to be a representative period, have been engaged in the production of milk for sale in the said area, and who participated in a referendum conducted by the Secretary on July 17, 1937.

In witness whereof, I, M. L. Wilson, Acting Secretary of Agriculture, have executed this determination and have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 27th day of July, 1937.

[SEAL] M. L. WILSON,
*Acting Secretary of Agriculture.*

Approved:

FRANKLIN D. ROOSEVELT,
*The President of the United States.*

Dated: July 27, 1937.

[F. R. Doc. 37-2401; Filed, July 28, 1937; 3:21 p. m.]

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ORDER OF THE SECRETARY OF AGRICULTURE ISSUED PURSUANT TO THE AGRICULTURAL MARKETING AGREEMENT ACT OF 1937, APPROVED JUNE 3, 1937 (PUBLIC 137, 75TH CONGRESS) AMENDING ORDER NO. 4 REGULATING THE HANDLING IN INTERSTATE OR FOREIGN COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE OR FOREIGN COMMERCE, OF MILK IN THE GREATER BOSTON, MASSACHUSETTS, MARKETING AREA

Whereas pursuant to Public, No. 10, 73d Congress, as amended, the Secretary of Agriculture, hereinafter called the Secretary, on January 18, 1936, tentatively approved a marketing agreement regulating the handling of milk in the Greater Boston, Massachusetts, Marketing Area; and

Whereas, on February 7, 1936, the Secretary issued Order No. 4 regulating the handling of milk in the Greater Boston, Massachusetts, Marketing Area, said order being effective 12:01 a. m. eastern standard time, February 9, 1936; and

Whereas, the Secretary, having reason to believe that an amendment should be made to said tentatively approved marketing agreement and to said order, gave, on the 24th day of June 1937, notice of a hearing[1] to be held on the 30th day of June 1937 at St. Johnsbury, Vermont, on the 1st day of July 1937 at Boston, Massachusetts, and on the 2nd day of July 1937 at Augusta, Maine, on a proposed amendment to said tentatively approved marketing agreement and said order, and at said times and places conducted a public hearing at which all interested parties were afforded an opportunity to be heard on the proposed amendment to said tentatively approved marketing agreement and to said order; and

Whereas, after such hearing and after the approval by the Secretary, in accordance with the powers and functions vested in him by the Agricultural Marketing Agreement Act of 1937, which reenacted and further amended Public, No. 10, 73rd Congress, as amended, said Agricultural Marketing Agreement Act being hereinafter referred to as the act, on the 10th day of July 1937, of an amendment to said tentatively approved marketing agreement, handlers of more than 50 per centum of the volume of milk covered by such order, as amended, which is marketed within the Greater Boston,

[1] 2 F. R. 1313 (DI).

Massachusetts, Marketing Area, refused or failed to sign such tentatively approved marketing agreement, as amended, relating to milk; and

Whereas, the Secretary determined on the 27th day of July 1937, said determination being approved by the President of the United States on the 27th day of July 1937, that said refusal or failure tends to prevent the effectuation of the declared policy of said act, and that the issuance of this amendment to said order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk in said area, and is approved or favored by over 70 per centum of the producers who, during the month of May 1937, said month being determined by the Secretary to be a representative period, have been engaged in the production of milk for sale in the Greater Boston, Massachusetts, Marketing Area, and who voted in a referendum conducted by the Secretary of Agriculture on July 17, 1937; and

Whereas, the Secretary finds upon the evidence introduced at the hearing upon such proposed amendment, said findings being in addition to the findings made upon the evidence introduced at the hearing on said order, said original findings being herewith ratified and affirmed by the Secretary save only as such findings are in conflict with the findings hereinafter set forth:

1. That the minimum prices fixed by this amendment are reasonable and justified by the economic data submitted at the aforementioned hearings; that the prices fixed by this amendment will, over a period of time, tend to give milk sold in the marketing area a purchasing power with respect to articles that producers buy equivalent to the purchasing power of such milk in the base period; that the fixing of such prices does not have for its purpose the maintenance of prices to producers above the levels which were declared in the act to be the policy of Congress to establish; that the method provided for fixing the Class II price is a method which bears a direct and reasonable relationship to the price of cream in the above market;

2. That in view of changes in economic conditions since the date of the original findings, the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for milk so delivered, without the use of a base-rating plan, but with the inclusion of special location differentials, is a fair and reasonable method of distributing to producers the proceeds of sales of milk to handlers;

3. That in view of State laws covering the giving of security by handlers, the giving of security to the Market Administrator for payments to be made by each handler is no longer necessary in order to insure the payment to producers of the minimum prices fixed in the order;

4. That all the remaining provisions of this amendment are necessary to effectuate the other provisions of the order, as amended;

5. That the order, as amended, regulates the handling of milk in the same manner as and is applicable only to handlers specified in the tentatively approved marketing agreement, as amended, upon which hearings have been held; and

6. That the issuance of the amendment to the order and all of the terms and conditions of the order, as amended, will tend to effectuate the declared policy of the act.

Now, therefore, the Secretary of Agriculture, pursuant to the authority vested in him by the Agricultural Marketing Agreement Act of 1937, which reenacted and further amended Public, No. 10, 73rd Congress, as amended, hereby orders that Order No. 4 regulating the handling of milk in the Greater Boston, Massachusetts, Marketing Area, issued by the Secretary on February 7, 1936, be and it is hereby amended as follows:

A. Delete paragraphs 1, 5, and 9 from section 1 of article I and insert the following as new paragraphs 1 and 5 of section 1 of article I:

1. "Act" means the Agricultural Marketing Agreement Act of 1937 which reenacts and further amends Public, No. 10, 73d Congress, as amended.

5. "Producer" means any person who, in conformity with the health regulations which are applicable to milk which is sold for consumption as milk in the marketing area, produces milk and distributes or delivers to a handler milk of his own production.

B. Delete paragraph 5 from section 4 of article II and insert in lieu thereof the following:

5. Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person, who within 15 days after the date upon which he is required to perform such acts has not (a) made reports pursuant to article V or (b) made payments pursuant to article VIII;

C. Delete article III and insert in lieu thereof the following:

ARTICLE III. CLASSIFICATION OF MILK

SECTION 1. *Sales and Use Classification.*—Milk purchased or handled by handlers shall be classified as follows:

1. All milk sold or distributed as milk, chocolate milk, or flavored milk and all milk not specifically accounted for as Class II milk shall be Class I milk; and

2. Milk specifically accounted for (a) as being sold, distributed, or disposed of other than as milk, chocolate milk, or flavored milk and (b) as actual plant shrinkage within reasonable limits shall be Class II milk.

SEC. 2. *Interhandler or Nonhandler Sales.*—Milk, including skim milk, sold by a handler to another handler or to a person who is not a handler and who distributes milk or manufactures milk products shall be presumed to be Class I milk. In the event that such selling handler, on or before the date fixed for filing reports pursuant to article V, notifies the Market Administrator that such milk, or a part thereof, has been sold or used by such purchaser other than as Class I milk, such milk, or part thereof, shall be classified as Class II milk; provided, that if such selling handler does not, on or before the 15th day after the end of the delivery period during which such sale was made, furnish proof satisfactory to the Market Administrator in support of the above notification, such milk or part thereof shall then be classified as Class I milk and so included in the statement rendered to the selling handler pursuant to paragraph 3 of section 1 of article VIII.

D. Delete sections 1, 2, and 3 of article IV and insert in lieu thereof the following:

SECTION 1. *Class I Prices to Associations of Producers.*—Each handler shall pay any association of producers for Class I milk containing 3.7 percent butterfat not less than the following prices:

1. $3.31 per hundredweight for such milk delivered from the plant of such association to such handler's plant located not more than 40 miles from the State House in Boston;

2. $3.26 per hundredweight for such milk delivered from the plant of such association to such handler at a railroad delivery point not more than 40 miles from the State House in Boston; and

3. If such milk is delivered containing butterfat more or less than 3.7 percent such handler shall add or subtract, as the case may be, a differential for each one-tenth of one percent above or below 3.7 percent, which differential is the result of dividing by 330 the cream price used in paragraph 1 of section 3 of this article.

SEC. 2. *Class I Prices to Producers.*—Each handler shall pay producers, in the manner set forth in article VIII, for Class I milk delivered by them, not less than the following prices:

1. $3.19 per hundredweight for such milk delivered from producers' farms to such handler's plant located not more than 40 miles from the State House in Boston;

2. $3.01 per hundredweight for such milk delivered from producers' farms to such handler's plant located more than 40 miles from the State House in Boston, less an amount per hundredweight equal to the freight from the railroad shipping point for such handler's plant to such handler's railroad delivery point in the Marketing Area. Such freight shall be calculated according to applicable rail tariffs for the transportation in carload lots of milk in 40-quart cans and each such can shall be considered to contain 85 pounds of milk;

3. For the purpose of this section the milk which was sold or distributed during each delivery period, by each handler, as Class I milk shall be presumed to have been that milk which was received at such handler's plant located not more than 40 miles from the State House in Boston (a) directly from producers' farms and (b) from the nearest plants located more than 40 miles from the State House in Boston.

SEC. 3. *Class II Prices.*—Each handler shall pay producers, in the manner set forth in article VIII, for Class II milk not less than the following prices per hundredweight:

1. In the case of such milk delivered to a handler's plant located not more than 40 miles from the State House in Boston, a price which the Market Administrator shall calculate as follows: Divide by 33 the weighted average price per 40-quart can of bottling quality cream in the Boston market, as reported by the United States Department of Agriculture for the delivery period during which such milk is delivered, multiply the result by 3.7, add 2.125 times the average of the weekly quotations per pound of domestic, 20–30 mesh, casein in bags delivered in carload lots at New York, as published by the Oil, Paint and Drug Reporter during such delivery period, and subtract 42 cents; and

2. In the case of such milk delivered to a handler's plant located more than 40 miles from the State House in Boston, the price calculated by the Market Administrator, pursuant to paragraph 1 of this section, minus 6 cents.

E. Delete the words following the word "handlers" in paragraph 1 of section 1 of article V; and delete section 3 of article V, and insert in lieu thereof the following:

SEC. 3. *Reports of Payments to Producers.*—Each handler shall submit to the Market Administrator within 30 days after the end of each delivery period his producer pay roll for such delivery period which shall show for each producer: (a) The total delivery of milk with the average butterfat test thereof and (b) the net amount of such producer's payment, with the prices, deductions, and charges involved.

F. Delete section 2 of article VI and substitute therefor the following:

SEC. 2. *Milk Purchased from Producers.*—In the case of a handler who is also a producer and who purchased milk from producers, the Market Administrator shall, before making the computations set forth in article VII, (a) exclude from such handler's Class I milk up to but not exceeding 90 percent of the quantity of milk produced and sold by him, (b) exclude the milk purchased by him in each class from other handlers, and (c) exclude from his remaining Class II milk the balance of the milk produced and sold by him.

G. Delete article VII and insert in lieu thereof the following:

ARTICLE VII. DETERMINATION OF UNIFORM PRICES TO PRODUCERS

SECTION 1. *Computation of Value of Milk for Each Handler.*—For each delivery period the Market Administrator shall compute, subject to the provisions of article VI, the value of milk sold or used by each handler, which was not purchased from other handlers, by (a) multiplying the quantity of such milk in each class by the price applicable pursuant to sections 2, 3, and 4 of article IV and (b) adding together the resulting value of each class.

SEC. 2. *Computation and Announcement of Uniform Prices.*—The Market Administrator shall compute and announce the uniform prices per hundredweight of milk delivered during each delivery period in the following manner:

1. Combine into one total the respective values of milk, computed pursuant to section 1 of this article, for each handler who made the report as required by section 1 of article V for such delivery period and who made the payments required by article VIII for milk received during the delivery period next preceding but one;

2. Add the total net amount of the differentials applicable pursuant to section 4 of article VIII;

3. Subtract the total amount to be paid to producers pursuant to paragraph 2 of section 1 of article VIII;

4. Divide by the total quantity of milk which is included in these computations, except that milk required to be paid for pursuant to paragraph 2 of section 1 of article VIII;

5. Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in connection with the payments set forth in paragraph 3 of section 1 of article VIII;

6. Add an amount which will prorate, pursuant to section 3 of this article, any cash balance available; and

7. On or before the 12th day after the end of each delivery period mail to all handlers and publicly announce (a) such of these computations as do not disclose information confidential pursuant to the act, (b) the blended price per hundredweight which is the result of these computations, and (c) the Class II price.

SEC. 3. *Proration of Cash Balance.*—For each delivery period the Market Administrator shall prorate, by an appropriate addition pursuant to section 2 of this article, the cash balance, if any, in his hands from payments made by handlers for milk received during the delivery period next preceding but one, to meet obligations arising out of paragraph 3 of section 1 of article VIII.

H. Delete articles VIII and IX and insert in lieu thereof the following:

ARTICLE VIII. PAYMENTS FOR MILK

SECTION 1. *Time and Method of Payment.*—On or before the 25th day after the end of each delivery period each handler shall make payment, subject to the butterfat differential set forth in section 3 of this article, for the total value of milk received during such delivery period as required to be computed pursuant to section 1 of article VII, as follows:

1. To each producer, except as set forth in paragraph 2 of this section, at the blended price per hundredweight computed pursuant to section 2 of article VII, subject to the differentials set forth in section 4 of this article, for the quantity of milk delivered by such producer;

2. To any producer, who did not regularly sell milk for a period of 30 days prior to the effective date hereof to a handler or to persons within the Marketing Area, at the Class II price, in effect for the plant at which such producer delivered milk, for all the milk delivered by such producer during the period beginning with the first regular delivery of such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month;

3. To producers, through the Market Administrator, by paying to or receiving from the Market Administrator, as the case may be, the amount by which the payments made pursuant to paragraphs 1 and 2 of this section are less than or exceed the value of milk as required to be computed for such handler pursuant to section 1 of article VII, as shown in a statement rendered by the Market Administrator on or before the 20th day after the end of such delivery period.

SEC. 2. *Errors in Payment.*—Errors in making any of the payments prescribed in this article shall be corrected not later than the date for making payments next following the determination of such errors.

SEC. 3. *Butterfat Differential.*—If any producer has delivered to any handler during any delivery period milk having an average butterfat content other than 3.7 percent, such handler shall, in making the payments prescribed by paragraphs 1 and 2 of section 1 of this article to such producer, add for each one-tenth of one percent of average butterfat content above 3.7 percent, or deduct for each one-tenth of one percent of average butterfat content below 3.7 percent, an amount per hundredweight which shall be calculated by the Market Administrator as follows: Divide by 33 the weighted average price per 40-quart can of bottling quality cream in the Boston market, as reported by the United States Department of Agriculture for the delivery period during which such milk is delivered, subtract 8 cents, and divide the result by 10.

SEC. 4. *Location Differentials.*—The payments to be made to producers by handlers pursuant to paragraph 1 of section 1 of this article shall be subject to differentials as follows:

1. With respect to milk delivered by a producer to a handler's plant located more than 40 miles from the State House in Boston, there shall be deducted an amount per hundredweight equal to the freight (considering 85 pounds of milk per can), according to the tariff currently approved by the Interstate Commerce Commission for the transportation, in carload lots of milk in 40-quart cans, to Boston from the zone of location of the handler's plant.

2. With respect to milk delivered by a producer to a handler's plant located not more than 40 miles from the State House in Boston, there shall be added 18 cents per hundredweight.

3. With respect to milk delivered by a producer whose farm is located more than 40 miles, but not more than 80 miles, from the State House in Boston, there shall be added 23 cents per hundredweight.

4. With respect to milk delivered by a producer whose farm is located not more than 40 miles from the State House in Boston, there shall be added 46 cents per hundredweight unless such addition gives a result greater than $3.19, in which event there shall be added an amount which will give a result of $3.19.

SEC. 5. *Other Differentials.*—In making the payments to producers set forth in paragraphs 1 and 2 of section 1 of this article, handlers may make deductions as follows:

1. With respect to all milk delivered by producers to the plant of a handler which is located more than 40 miles from the State House in Boston and which is located more than two miles from a railroad shipping point, an amount not greater than 10 cents per hundredweight; provided, that such deduction has been approved and made public by the Market Administrator prior to the time of payment.

2. With respect to milk delivered by producers to a handler's plant which is located more than 14 miles, but not more than 40 miles, from the State House in Boston, an amount equal to 10 cents per hundredweight of Class I milk actually sold or distributed in the Marketing Area from such plant, such total amount to be deducted pro rata on all milk delivered by such producers.

3. With respect to milk delivered by producers to any handler's plant from which the average daily shipment of Class I milk during any delivery period is less than 21,500 pounds, an aggregate amount, prorated among producers delivering milk to such plant equal to the difference between the freight to the marketing area at the carload rate and at the less than carload rate for the Class I milk shipped during such delivery period.

ARTICLE IX. MARKETING SERVICES

SECTION 1. *Deductions for Marketing Services.*—Except as set forth in section 2, each handler shall deduct an amount not exceeding 2 cents per hundredweight (the exact amount to be determined by the Market Administrator, subject to review by the Secretary) from the payments made direct to producers pursuant to article VIII with respect to all milk delivered to such handler during each delivery period by producers and shall pay such deductions to the Market Administrator on or before the 25th day after the end of such delivery period. Such monies shall be expended by the Market Administrator for market information to and for verification of weights, sampling, and testing of milk purchased from said producers.

SEC. 2. *Producers' Cooperative Association.*—In the case of producers for whom a cooperative association, which the Secretary determines to be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act", is actually performing, as determined by the Secretary, the services set forth in section 1 of this article, each handler shall make, in lieu of the deductions specified in section 1 of this article, such deductions from the payments to be made direct to such producers, pursuant to article VIII, as are authorized by

such producers and, on or before the 25th day after the end of each delivery period, pay over such deductions to the association rendering such service.

I. Delete article XI and renumber the remaining articles consecutively beginning with the number XI.

Now, therefore, M. L. Wilson, Acting Secretary of Agriculture, acting under the provisions of the Agricultural Marketing Agreement Act of 1937, which reenacted and further amended Public, No. 10, 73rd Congress, as amended, does hereby execute in duplicate and issue this amendment to Order No. 4 regulating the handling of milk in the Greater Boston, Massachusetts, Marketing Area under his hand and the official seal of the Department of Agriculture, in the City of Washington, District of Columbia, on this 28th day of July 1937, and, pursuant to the provisions hereof, declares this amendment to be effective on and after 12:01 a. m. eastern standard time August 1, 1937.

[SEAL] M. L. WILSON,
*Acting Secretary of Agriculture.*

[F. R. Doc. 37-2402; Filed, July 28, 1937; 3:21 p. m.]

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**Bureau of Agricultural Economics.**

[Amendment No. 4 to Service and Regulatory Announcements No. 143]

AMENDMENT TO RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE FOR CARRYING OUT THE PROVISIONS OF THE EXPORT APPLE AND PEAR ACT

By virtue of the authority vested in the Secretary of Agriculture by an "Act to promote the foreign trade of the United States in apples and/or pears, to protect the reputation of American-grown apples and pears in foreign markets, to prevent deception or misrepresentation as to the quality of such products moving in foreign commerce, to provide for the commercial inspection of such products entering such commerce, and for other purposes," approved June 10, 1933 (48 Stat. 123), entitled the "Export Apple and Pear Act," I, do make, prescribe, and give public notice of the amendment as herein set forth to the rules and regulations of the Secretary of Agriculture which were issued and effective under said Act on the 1st day of September, 1933:

Effective on and after the 1st day of August, 1937, amend the first sentence of Regulation 13 to read:

Any shipment of apples and/or pears of less than 400 bushels in packages is hereby defined as a less-than-a-carload quantity for the purposes of the Act.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington this 28th day of July 1937.

[SEAL] M. L. WILSON,
*Acting Secretary of Agriculture.*

[F. R. Doc. 37-2403; Filed, July 28, 1937; 3:21 p. m.]

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**DEPARTMENT OF LABOR.**

DECISION OF THE SECRETARY IN THE MATTER OF DETERMINATION OF PREVAILING MINIMUM WAGES IN THE COTTON GARMENT AND ALLIED INDUSTRIES

This case is before me pursuant to Section 1 (b) of the Act of June 30, 1936 (Public No. 846, 74th Congress) entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes." At my direction the Public Contracts Board, created in accordance with Section 4 of the said Act by Administrative Order dated October 6, 1936, held open hearings on November 20, 1936 and December 8, 1936, with respect to the prevailing minimum wages in the men's work garment industry and held further hearings on April 22, 1937, with respect to the prevailing minimum wages in the men's sport jacket industry and the men's shirt industry, completing the consideration of the cotton garment and allied industries.

For the purposes of these investigations the cotton garment and allied industries were deemed to include the manufacture of overalls, unionalls, service uniforms, work pants and work coats, sheeplined jackets, leather jackets, mackinaws, work shirts and blouses, made of khaki, denim, drills, twills, cottonades, ducks, corduroys, or other fabrics, in whole or in part of cotton or wool.

Invitations to attend the above hearings were sent to all known trade associations and labor unions and to approximately six hundred manufacturers listed in the directories of these industries and were extended, through the national press, to all employers and employees interested. Testimony was received by the Board at these hearings and at supplemental conferences with representatives of employers and employees acting as consultants, tending to show what were the prevailing minimum wages for persons employed in these particular industries. Evidence was submitted by the Women's Bureau of the Department of Labor, by the United Garment Workers of America, by the Amalgamated Clothing Workers of America, by the United Textile Workers of America, by the International Association of Garment Manufacturers, and by other representatives of employers and employees and the public. On the basis of all this evidence, the Board has submitted findings of fact and recommendations on the prevailing minimum wages in these industries.

Of primary significance is the recommendation that the wage determination for the work clothing industry should be extended to the shirt and sport jacket industries which are in reality allied branches of the garment industry. Men's shirts and sport jackets are frequently manufactured in essentially the same factories and by the same workers as men's work clothing. This is so even though the former involves wool, leather and other materials not used in men's work clothing. In addition to this overlapping of workshop and worker, there is a uniformity in the work processes employed. All of these industries involve designing, cutting, stitching, and trimming of basically the same nature. These similarities of place, person, and process make it necessary to establish one minimum wage rate for all of these related branches of the garment industry.

The technical similarity and personal interrelationship of these industries, apparent to the layman, were regarded as cause for a uniformity of regulation by all the experts. Not only the Public Contracts Board but also the panel of employer and employee consultants for these industries were in agreement on this point. The consensus of opinion of both the labor and industry consultants on the practical necessity of a uniform wage for these branches of the garment industry was of impelling weight to the Board and to me.

This conclusion was corroborated further by the evidence of the wages being paid in these industries. The wage rates reported for each of these industries vary extremely among the levels of skills and within each occupational classification. There is no concentration of a substantial portion of all the workers at any particular wage. The similarity of the collective bargaining agreements is the only uniformity that stands out as prevailing in these industries. Hence, the only clearly prevailing minimum wage is the wage paid to the unskilled workers in the unionized plants of these garment industries.

The undisputed testimony shows that the minimum union rate for the 28-29,000 members of the United Garment Workers of America is $15.00 a week for a 40-hour week. The minimum rate for the 9,250 members of the Amalgamated Clothing Workers of America is $14.40 a week for a 36-hour week, which amounts to $16.00 a week for a 40-hour week. These rates are the minima for approximately 38,000 out of the 55,000 workers in the men's work clothing industry.

Upon this evidence, on January 30, 1937, I determined that the minimum wage for employees of contractors with the Government engaged in the manufacture of men's work clothing should be $15.00 per week for a week of 40 hours or 37.5 per hour.

This minimum wage of $15.00 for a 40 hour week is present in the evidence on sport jackets and shirts as well as in the evidence on the other types of work clothing. This is particularly true in those states (Pennsylvania, New York, Connecticut and New Jersey) that employ about two-thirds of all the shirt workers and in those states (Illinois, Minnesota, New Jersey and New York) that employ about three-fourths of all the sport jacket workers. It is likewise true of the union establishments in all states having such establishments and so represents a prevailing wage for these industries throughout the country as a whole.

At the hearing evidence was presented tending to show that higher wages were paid to workers engaged in the production of leather and sheeplined coats and mackinaws than in the manufacture of the other garments under consideration. The leather and sheeplined coats and mackinaws require a heavier type of stitching which is done almost exclusively by men, whereas the other lighter garments are made primarily by women. Aside from this generality, however, no showing was made of the specific wage which prevails among this group of employees. And in the absence of such testimony I am unable to find any wage other than that of 37.5 cents per hour or $15.00 per week for a 40 hour week based on the similarity of the work involved in the production of these articles and the production of other garments.

It should be understood, however, that the grouping of these workers with the others under the same minimum wage determination is a temporary matter and should not be regarded as permanent.

The Public Contracts Division should immediately take steps to secure and present to the Public Contracts Board further information on this issue so as to put the Board in a position to make findings of fact and recommendations on the prevailing minimum wage of those employees engaged in the production of leather and sheeplined coats and mackinaws.

The advisability of establishing geographic differentials in these garment industries was given thorough consideration. It was demonstrated that in these industries the applicability of geographic differentials to government contracts differs materially from their applicability to private or commercial contracts. The government orders for men's work garments are restricted to a few items with specifications to which only a limited number of manufacturers are willing to adapt themselves.

The difficulties of geographic differentials were further emphasized by the evidence of the wages actually being paid in these industries. Existing differences defied any regional apportionment.

In the men's sport jacket industry information was presented concerning firms in New York, New Jersey and Pennsylvania in the East; Minnesota, Illinois, Ohio and Wisconsin in the Middle West and Tennessee in the South. The range of rates among the firms in one state is greater than the difference in rates between any two states or regions. In New Jersey, the median hourly earnings range from 27.5 cents to 54.2 cents an hour. In Illinois they range from 38.1 cents to 62.4 cents an hour. The ranges within all the several states overlap each other and the difference between South and East or East and Middle West is much less than the difference between firms within the same state.

Similarly in the men's shirt industry, the states within a geographic region vary more among themselves than do the geographic regions. Delaware and Maryland, in the reputedly higher paid East, have average hourly earnings of 24.1 and 26.7 cents respectively, while average hourly earnings in Kentucky and Georgia, in the reputedly lower paid South, are 30 and 36.3 cents respectively. The variation among individual plants within each state show the same inconsistencies and much overlapping. The evidence clearly demonstrates the impossibility of segregating any geographic differential wage areas on the basis of actually prevailing wages in the shirt or the sport jacket industry. The reasonable conclusion must be against the establishment of geographic differentials in these industries.

The evidence presented at the hearings indicates that although there is a continuous need for replenishing these industries with new employees and for maintaining those whom age and inability have made less efficient, this can be accomplished by permitting a tolerance from the wage requirement for a limited number of learners, handicapped and superannuated workers not to exceed 20% of all the employees in any establishment. The learners in the garment industry were estimated to equal approximately 5 to 6% of all workers in the industry. The labor and industry members of the advisory panel, however, unanimously recommended a 20% tolerance for learners, superannuated and handicapped workers and I am accepting this recommendation. The number of handicapped and superannuated workers was unknown. The extent of this tolerance conforms to the present need of these industries on government contracts; however, it should not be regarded as settled permanently. In order to safeguard the workers against abuse of this exception to the established minimum wage, the Division of Public Contracts should make further studies of this situation so that the Secretary's decision may be supplemented from time to time by appropriate regulations.

Therefore, I hereby determine—

(1) That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of Public Act No. 846, 74th Congress, approved June 30, 1936, for the manufacture or supply of the following commodities, whether made of wool or cotton:

Men's and youths' trousers and knickers (except those made wholly of wool)
Shirts and nightwear (including flannel)
Men's and youths' work shirts
Men's, youths', and boys' sleeping garments
Overalls, overall jackets, and one-piece overall suits
Work pants and breeches (except those made wholly of wool)
Work and other short coats
Windbreakers and lumberjackets (excluding mackinaws and leather and sheeplined coats)
Oiled waterproof cotton outergarments
Men's and youths' wash suits
Washable service apparel (hospital, professional, etc.)
Blanket-lined and similar coats
Other cotton outerwear, men's, youths'

shall be 37.5¢ per hour or $15.00 per week for a week of 40 hours, to be arrived at either upon a time or piece work basis, and

(2) That in accordance with the recommendation of the advisory panel, a tolerance not to exceed 10% of the workers in any one establishment be granted for those workers who are in fact learners, provided that such learners be paid not less than $8.00 per week for the first four weeks, $10.00 for the next four weeks, and $12.00 for the third four week period after which they shall reecive $15.00, provided that they be paid during the twelve weeks learning period not less than the piece rates paid to the workers in the same establishment and provided further that such learners be on the pay roll at the time performance of the contract is started; and that an additional tolerance of 10% be granted for those workers who are in fact handicapped or superannuated, provided that they be paid not less than the piece rates paid to the workers in the same establishment; and provided further that all such learners, handicapped or superannuated workers be qualified for such exemption in accordance with such requirements as may be hereafter established.

This determination shall become effective and shall apply to all contracts awarded subject to Public Act No. 846, 74th Congress, on or after August 2, 1937.

Dated this 28 day of July, 1937.

[SEAL] FRANCES PERKINS, *Secretary.*

[F. R. Doc. 37-2412; Filed, July 29, 1937; 12:56 p. m.]

DECISION OF THE SECRETARY OF LABOR IN THE MATTER OF DETERMINATION OF THE PREVAILING MINIMUM WAGE IN THE MEN'S HAT AND CAP INDUSTRY

This case is before me pursuant to Section 1 (b) of the Act of June 30, 1936 (Public Act No. 846, 74th Congress), entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes." At my direction the Public Contracts Board, created in accordance with Section 4 of the said Act by Administrative Order dated October 6, 1936, has been engaged in the consideration of the wages paid in the various garment industries, and on April 21, 1937, it held a public hearing on the prevailing minimum wages in the men's hat and cap industry.

Invitations to attend this hearing were sent to 11 trade associations and labor unions and to the 70 manufacturers listed in directories of the industry and were extended, through the national press, to all other employers and employees interested. Testimony was presented by representatives of the National Headwear Manufacturers Association and the United Hat, Cap and Millinery Workers International Union, as well as by individual employers and members of the public. A special study by the Women's Bureau of the Department of Labor was also presented. On the basis of all this evidence, the Board has submitted findings of fact and recommendations on the prevailing minimum wage in this industry.

The undisputed evidence of the types of hats and caps purchased by the Government indicates that those hats are manufactured by what is commonly known as the uniform branch of the industry as distinguished from the civilian branch of the industry. Approximately 85% of the workers in the uniform branch of the industry are unionized and are paid in accordance with similar collective bargaining agreements. These agreements constitute clearly the prevailing wages of the industry and the prevailing minimum wage in these agreements is 67.5 cents per hour or $27.00 per week for a forty hour week.

At the hearing evidence was submitted that showed the existence of several definite occupational classifications and the request was made by representatives of labor that a minimum wage should be established by the Secretary of Labor for each such classification. The Acting Solicitor of Labor has advised me that the act authorizes the fixing of only one minimum wage in an industry and does not permit the establishment of occupational minima. In view of such ruling, the request mentioned above must be and is hereby refused.

The only evidence presented on the question of geographic differentials by both employers and employees was against the establishment of such differentials. There are practically no hat and cap plants in the South and the differences that exist between plants in the East and the Middle West do not warrant the establishment of an East-West differential. The government market for hats and caps is distinctly national. Competitive bids are received for the same orders from all places of manufacture and a geographic differential would merely give an undue advantage to certain manufacturers to the prejudice of their competitors. Consequently there should be no geographic differential in the hat and cap industry.

The testimony of several of the witnesses showed that the manufacturers engaged in the production of hats and caps for the Government use only workers of a high degree of skill. It is apparently customary for workers to be trained on commercial or private work and only after years of experience to be used in the production of the so-called uniform hats and caps. Even in the making of low-priced camp hats and work caps for the Government, a higher standard of workmanship is employed than exists for high grade commercial hats. On the government hats a special lock stitch machine, which sews cloths together so that they cannot be ripped apart, is commonly used. The government inspection is exceedingly exacting and because of mass production, any imperfection may result in a heavy loss. As a result learners or other sub-average employees are not used on government work. Such being the case, there is no need for a tolerance on behalf of learners, handicapped or superannuated workers in this industry.

Therefore, I hereby determine—

(1) That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of Public Act No. 846, 74th Congress, approved June 30, 1936, for the manufacture or supply of men's hats and caps shall be 67.5 cents per hour or $27.00 per week for a forty hour week to be arrived at either upon a time or piece work basis.

This determination shall become effective and shall apply to all contracts awarded subject to Public Act No. 846, 74th Congress on or after August 2, 1937.

Dated this 28th day of July, 1937.

[SEAL] FRANCES PERKINS, *Secretary.*

[F. R. Doc. 37-2413; Filed, July 29, 1937; 12:56 p. m.]

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DECISION OF THE SECRETARY IN THE MATTER OF DETERMINATION OF THE PREVAILING MINIMUM WAGE IN THE MEN'S NECKWEAR INDUSTRY

This case is before me pursuant to Section 1 (b) of the Act of June 30, 1936 (Public Act No. 846, 74th Congress), entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes". At my direction, the Public Contracts Board, created in accordance with Section 4 of the said Act by Administrative Order dated October 6, 1936, has been engaged in the consideration of the wages paid in the various garment industries, and on April 22, 1937, it held a public hearing on the prevailing minimum wages in the men's neckwear industry.

Invitations to attend this hearing were sent to the 15 trade associations and labor unions and to the 100 manufacturers listed in directories of the industry and were extended, through the national press, to all other employers and employees interested. Testimony was presented by representatives of the New York Neckwear Manufacturers Association, the Amalgamated Clothing Workers of America, and the American Federation of Labor, as well as by individual employers and members of the public. A special study by the Women's Bureau of the Department of Labor was also presented. On the basis of all this evidence, the Board has submmitted findings of fact and recommendations on the prevailing minimum wage in this industry.

All of the evidence presented indicated that the men's neckwear industry is highly organized and that its wages are much higher than those paid in the other garment industries under consideration. The witnesses for the Union and the Manufacturers Association testified that approximately 60 percent of the industry is governed by collective bargaining agreements and that the wages provided in such agreements for the various occupational groupings are paid to a far greater concentration of workers within each occupational classification than any other wages. In these agreements provision is made for a weekly minimum of $50.00 for cutters and a weekly minimum of $15.00 for boxers and trimmers who are in reality regarded as beginners. The other regular production workers are covered by piece rate schedules incorporated in the agreements. The evidence establishes the fact that the actual hourly earnings based on such piece rates are not less than 50¢ per hour. It is apparent therefore that the prevailing minimum wage for the regular productive workers in the neckwear industry is 50¢ per hour or $20.00 per week for a 40 hour week.

The problem of learners in the men's neckwear industry presents an aspect slightly different from that existing in the other garment industries under review. Although the

Women's Bureau study reported that the total number of learners represent less than 2 percent of the persons employed in the industry, there is undisputed evidence that many beginners are classed as boxers and trimmers. These persons, though employed for some period of time, are still regarded as beginners. They are in effect learners who have been assigned to certain unskilled productive tasks. A tolerance made to permit the development of new personnel in the industry should recognize those beginners who are engaged as boxers or trimmers as well as those beginners who are engaged as learners on all other types of work. From an examination of the evidence paid such workers in the industry, it appears advisable that a tolerance of 10 percent of the workers employed in any one establishment be granted for learners, superannuated and handicapped workers exclusive of boxers and trimmers and that an additional tolerance be granted for all persons actually employed as boxers and trimmers. All of these exempted employees should be paid at least the prevailing piece rate paid to other employees but not less than 37.5 cents per hour or $15.00 per week for a forty-hour week. The extent of this tolerance conforms to the present need of the industry on government contracts; however, it should not be regarded as settled permanently. In order to avoid hardship to employers with newly established plants and at the same time to safeguard the workers against the abuses of these exceptions to the established minimum wage, the Division of Public Contracts should make further studies of the situation so that this decision may be supplemented from time to time by appropriate regulations.

There was no request for a geographic differential in the men's neckwear industry. Forty-one percent of the industry is located in New York City and its immediate environs, 35 percent in the eastern states, 18 percent in the midwestern states and 6 percent in the far western states. There is practically no manufacture of neckwear in the South. Each of the states of Tennessee, Texas, North Carolina and Georgia produces less than one-tenth of one percent of the output of the industry. The wage variations throughout the country do not conform to any regional classification and there is no commercial reason for a geographic differential in the men's neckwear industry.

Since the Government makes no purchases of knitted neckwear, no consideration has been given to the wages paid in the manufacture of knitted neckwear.

Therefore, I hereby determine—

(1) That the minimum wage for employees engaged in the performance of contracts with agencies of the United States subject to the provisions of Public Act No. 846, 74th Congress, approved June 30, 1936, for the manufacture and supply of men's neckwear (exclusive of knitted neckwear) shall be 50 cents per hour, or $20.00 per week for a forty hour week arrived at either upon a time or piece work basis, and

(2) That a tolerance of not to exceed 10 percent of the workers in any one establishment shall be granted for those workers who are in fact learners, handicapped or superannuated workers, exclusive of boxers and trimmers, with an additional tolerance to persons actually employed as boxers and trimmers, provided that all such workers including learners, handicapped and superannuated workers and boxers and trimmers, be paid not less than 37.5 cents per hour or $15.00 per week for a forty hour week and not less than the piece rates paid to all other workers in the same occupational classification, and provided further that all such employees be qualified for such exemption in accordance with such requirements as may be established hereafter.

This determination shall become effective and shall apply to all contracts awarded subject to Public Act. No. 846, 74th Congress, on or after August 2, 1937.

Dated this 28th day of July, 1937.

[SEAL] FRANCES PERKINS, *Secretary.*

[F. R. Doc. 37-2414; Filed, July 29, 1937; 12:57 p. m.]

## DECISION OF THE SECRETARY IN THE MATTER OF DETERMINATION OF THE PREVAILING MINIMUM WAGE IN THE MEN'S RAINCOAT INDUSTRY

This case is before me pursuant to Section 1 (b) of the Act of June 30, 1936 (Public Act No. 846, 74th Congress) entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes." At my direction the Public Contracts Board, created in accordance with Section 4 of the said Act by Administrative Order dated October 6, 1936 has been engaged in the consideration of the wages paid in the various garment industries, and on April 21, 1937, it held a public hearing on the prevailing minimum wages in the men's raincoat industry including the manufacture of vulcanized, rubberized and cravenette raincoats.

Invitations to attend this hearing were sent to 13 trade associations and labor unions and to the 35 manufacturers listed in the directories of this industry and were extended, through the national press, to all employers and employees interested. Testimony was presented by representatives of the International Garment Manufacturers Association and the Women's Bureau of the Department of Labor. On the basis of this evidence, the Board has submitted findings of fact and recommendations on the prevailing minimum wage in this industry.

Evidence pointing to the prevailing minimum wage in the men's raincoat industry can be found both in the concentration of workers and in the average received by the lower paid workers in the industry. Although there is no concentration of more than 6% of the workers at any one specific wage, if the distribution of wages is arranged in 10-cent intervals the statistics reveal that 35.8% of all the workers studied are paid from 35 to 45¢ per hour. The mid-point of this range, or 40¢ per hour, is practically the same as the average wage for the lowest paid occupational group in the industry. The machine operators, who constitute approximately two-thirds of the workers in the industry and who, except for a very small number of incidental workers, are the lowest paid occupational group in the industry, receive an average of 40.1¢ per hour. The wage of 40¢ per hour or $16.00 per week for a 40-hour week is therefore deemed to be the prevailing minimum wage for this industry.

The men's raincoat industry exists primarily in Massachusetts and New York with scattered production in Ohio, Illinois, Pennsylvania, Indiana, New Jersey and Tennessee. There is wide variation in the rates paid by specific firms within the same state and overlapping rates among the various states. No claim has been made for a geographic differential and there is no evidence to indicate that one is desirable.

In the representative sample of the industry studied by the Women's Bureau less than 3% of the workers employed were learners. In order to provide for the necessary development of new personnel and the continued employment of superannuated and handicapped workers, a tolerance should be granted for the employment of workers beneath the established minimum wage to the extent of 10% of all the workers in any one establishment. These exempted employees should receive the prevailing piece rate and a minimum wage of at least 25% per hour or $10.00 per week for a 40-hour week. The extent of this tolerance conforms to the present need of the industry on government contracts; however, it is not to be regarded as settled permanently. In order to avoid hardship to employers with newly established plants and at the same time to safeguard the workers against abuse of this exception to the established minimum wage, the Division of Public Contracts will make further studies of this situation so that this decision may be supplemented from time to time by appropriate regulations.

Therefore, I hereby determine—

(1) That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of the Public Act No. 846, 74th Congress, approved June 30, 1936, for the manufacture or supply of men's raincoats, including the manu-

facture of vulcanized, rubberized and cravenette raincoats, shall be $16.00 per week for a 40 hour week or 40¢ per hour, arrived at either upon a time or piece work basis, and

(2) A tolerance of not to exceed 10% of the workers in any one establishment be granted for those workers who are in fact learners, handicapped or superannuated workers, subject to the conditions that they be paid not less than 25¢ per hour or $10.00 per week for a 40 hour week and not less than the piece rates paid to other workers in the same establishment and that they be qualified for such exemption in accordance with such requirements as may be established hereafter.

This determination shall become effective and shall apply to all contracts awarded subject to Public Act No. 846, 74th Congress, on or after August 2, 1937.

Dated this 28th day of July, 1937.

[SEAL] FRANCES PERKINS, *Secretary.*

[F. R. Doc. 37-2417; Filed, July 29, 1937; 12:57 p. m.]

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DECISION OF THE SECRETARY IN THE MATTER OF DETERMINATION OF THE PREVAILING MINIMUM WAGE IN THE MEN'S UNDERWEAR INDUSTRY

This case is before me pursuant to Section 1 (b) of the Act of June 30, 1936 (Public Act No. 846, 74th Congress), entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes." At my direction the Public Contracts Board, created in accordance with Section 4 of the said Act by Administrative Order dated October 6, 1936, has been engaged in the consideration of the wages paid in the various garment industries, and on February 11, 1937, it held a public hearing on the prevailing minimum wages in the men's underwear industry.

Invitations to attend this hearing were sent to all the known trade associations and labor unions and to 574 manufacturers listed in the directories of the garment industries and were extended, through the national press, to all other employers and employees interested. Testimony was presented by representatives of the Underwear Institute, the United Textile Workers of America, the Amalgamated Clothing Workers of America and the International Ladies Garment Workers of America, as well as by individual employers and members of the public. A special study by the Women's Bureau of the Department of Labor was also presented.

The evidence on the nature of the underwear industry showed that it is divided into two branches, the knit and the woven. It was the opinion of both employer and employee representatives who appeared at the hearing that both branches should be combined for the purpose of determining the prevailing minimum wage. Under the NRA one code covered both branches of this industry and the general wage schedules in both divisions appear to be practically the same. For these reasons I conclude that for the purpose of this act the underwear industry shall be deemed to include both the knit and woven divisions.

Two separate findings of fact and recommendations were filed by the Board, one by the Chairman and the other by the associate member. In the Chairman's opinion a prevailing minimum wage of 37.5 cents per hour or $15.00 a week, based on a 40 hour week, was found on the ground of similarity between the work involved in this industry and that involved in the men's work clothing industry. In the other opinion a wage of 35 cents per hour or $14.00 per week for a 40 hour week was found, and the basis for such finding was that a concentration of almost half of the workers existed at a 10 cent interval of from 30 cents to 40 cents per hour. Additional support was found in the average hourly wage as reported by the Underwear Institute and the Women's Bureau.

Both findings and recommendations opposed the establishment of geographic differentials for the reason that a satisfactory showing had not been made for the necessity of such action.

After an examination of the record, including briefs filed subsequent to the hearing, I find that I am unable to agree with either recommendation.

The Solicitor's Office, in reviewing the testimony, has advised me as a matter of law that the weight of the evidence was in favor of a geographic differential. Unlike other cases which have previously come before the Board, certain witnesses maintained that there was a wage pattern in one industrial region which set it apart from the rest of the country and that this was a distinct industrial center for underwear manufacturing.

While reports from one or two states in this region showed higher hourly average earnings than an occasional state outside the region, the evidence did show a rough approximation to the regional differentials formerly recognized in the applicable code of fair competition under the National Industrial Recovery Act. The record as a whole indicates that the range of wages in the southern states covered a lower area than that in the northern states. For example, in New York the average wage for plants varied from 27.9 cents per hour to 50.3 cents as distinguished from a range in Tennessee, mentioned as a typical southern state, from 19.8 to 35 cents. And the combined average for the states of Alabama, Georgia, North Carolina, Tennessee and Virginia amounts to 32.7 cents per hour as compared with an average of 34.8 cents per hour for Delaware, Illinois, Indiana, Maryland, Missouri, Massachusetts, New York, Ohio, Pennsylvania and Wisconsin. In view of these factors, a northern and southern differential similar to that established under the N. R. A. insofar as areas are concerned, would appear to be justified.

Approaching now the question of prevailing minimum wages in each of these areas, the record shows that the cutters, knitters and machine operators are all skilled workmen. In addition, there is a variation of wages paid to members in each of these occupations to such an extent that no one group can be considered the minimum classification in this industry. Hence, it is necessary to examine the wages paid to all employees rather than to those employees in any one occupational group.

In the northern states no marked concentration of earnings was found at any one rate. A central tendency of distribution of wages was found, however, in the interval from 30 cents to 40 cents per hour in which 39.6% of the workers were listed. Likewise, in the south no concentration was found at any one rate. But the record does show that the wages of 39.4% of the workers fell in the interval from 30 cents to 35 cents per hour. The mid point of this concentration in the north is 35 cents per hour and the mid point of this concentration in the south is 32.5 cents per hour. Moreover, the average wages in each of these sections supports these conclusions. In the north the average was 34.8 cents or approximately 35 cents per hour and in the south 32.7 cents or approximately 32.5 cents per hour.

Learners in this industry, according to testimony presented at the hearing by the representatives of the Underwear Institute, are not used on government work. Hence, no reason exists for providing a tolerance for such workers. In order to provide for the continued employment of superannuated and handicapped workers, however, it appears advisable to allow a tolerance of 10% of the number employed in any one establishment for such workers. They should further be protected by the requirement of the same piece rates as paid to other workers and a minimum wage of 25 cents an hour or $10.00 a week for a forty hour week. The extent of this tolerance conforms to the present need of the industry on government contracts; however, it should not be regarded as settled permanently. In order to avoid hardship to employers with newly established plants and at the same time to safeguard the workers against abuse of this exception to the established minimum wage, the Division of Public Contracts should make further studies of this situation so that this decision may be supplemented from time to time by appropriate regulations.

Therefore, I hereby determine—

(1) That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of Public Act No. 846, 74th Congress, approved June 30, 1936, for the manufacture and supply of men's underwear shall be (a) 32.5 cents per hour, or $13.00 per week for a week of 40 hours for employees operating in plants located in the southern area to consist of the following states: Virginia, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Texas, Louisiana, and Oklahoma; (b) 35 cents per hour, or $14.00 per week for a week of 40 hours, for employees operating in plants located in the northern area to consist of all states, including the District of Columbia, other than those specifically enumerated above.

Such wages may be arrived at either upon a time or piece work basis.

(2) That a tolerance of not to exceed 10% of the workers in any one establishment be granted for those workers who are in fact handicapped or superannuated workers subject to the conditions that they be paid not less than 25 cents per hour or $10.00 per week and not less than the piece rates paid to other workers in the same establishment and that they be qualified for such exemption in accordance with such requirements as may be established hereafter.

This determination shall become effective and shall apply to all contracts awarded subject to Public Act No. 846, 74th Congress, on or after August 2, 1937.

Dated this 28th day of July, 1937.

[SEAL] FRANCES PERKINS, *Secretary.*

[F. R. Doc. 37-2416; Filed, July 29, 1937; 12:57 p. m.]

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DECISION OF THE SECRETARY IN THE MATTER OF DETERMINATION OF THE PREVAILING MINIMUM WAGE IN THE SEAMLESS HOSIERY INDUSTRY

This case is before me pursuant to Section 1 (b) of the Act of June 30, 1936 (Public Act No. 846, 74th Congress), entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes." At my direction the Public Contracts Board, created in accordance with Section 4 of the said Act by Administrative Order dated October 6, 1936, has been engaged in the consideration of the wages paid in the various garment industries, and on April 28, 1937, it held a public hearing on the prevailing minimum wages in the seamless hosiery industry.

Invitations to attend this hearing were sent to the 17 trade associations and labor unions and to the 173 manufacturers listed in directories of the industry and were extended, through the national press, to all other employers and employees interested. Testimony was presented by representatives of the National Association of Hosiery Manufacturers, The Southern Hosiery Manufacturers Association, The American Federation of Hosiery Workers, as well as by individual employers and members of the public. A special study by the Women's Bureau of the Department of Labor was also presented. On the basis of all this evidence, the Board has submitted findings of fact and recommendations on the prevailing minimum wage in this industry.

The evidence presented by the various witnesses on the wages paid in the seamless hosiery industry differed largely because of a difference in the methods employed by the witnesses in summarizing and presenting the wages studied. All of the witnesses submitted wage rates being paid in the particular industry involved. Some presented the distribution of wages for the entire industry, for the occupational groupings within the industry and for both the entire industry and the separate occupations within the various geographic areas. It was on such evidence that the Public Contracts Board made its findings and recommendations and upon which this decision is based.

The prevailing minimum wage in this industry is supported both by a concentration in the distribution of all wages and the average for the lowest paid occupational groups. The Women's Bureau study indicates that there is no concentration of more than a few per cent of the workers in any wage interval of one cent; however, when grouped in five cent intervals, outstanding concentrations are found between 30 and 35 cents an hour which include 28.3% of the workers and from 35 to 40 cents an hour which include 18.7% of the workers. 47% or approximately half of all the workers in the industry earn between 30 and 40 cents an hour. This evidence indicates clearly that 35 cents per hour or $14.00 a week for a 40 hour week is the prevailing minimum wage in the seamless hosiery industry.

Furthermore, this determination finds support in the average wage of the lowest paid occupational groups. Those groups which were listed as miscellaneous occupations under the NRA and which include such finishing operations as trimming, inspecting, mending, paring, folding, stamping, ticketing and boxing, many of which are interchangeable in smaller factories, are paid, according to the figures of the Women's Bureau study, an average wage of 35 cents per hour. The brief of the American Federation of Hosiery Workers segregates the stamping and rider ticketing workers as the lowest occupational group and reports that they earn an average of 34.9 cents or approximately 35 cents per hour.

The evidence presented by the National Association of Hosiery Manufacturers unfortunately confined itself to a selection of the minimum rates found in each plant throughout the industry and did not take into account the probability that the *prevailing* minimum wage for the entire personnel of an establishment or the *prevailing* minimum wage for the lowest occupational groups may be above the lowest wage paid to any individual in the plant. The provisions of the Public Contracts Act do not require the Secretary of Labor to determine the lowest wage paid in an industry or the average of the lowest wages paid in the various plants of an industry. The intent and purpose of the law are rather to have determined the minimum which exists for an outstanding concentration of the workers so that employers paying what is generally deemed to be fair will not suffer from the competition of employers paying unreasonably low wages. When the evidence for the distribution and concentration of wages throughout the industry and the evidence of the average wages paid within the lowest occupational groupings of the industry indicate the same prevailing minimum wage, as they do in this industry, that wage should be adopted for the purposes of the Public Contracts Act.

The evidence further establishes the impracticability of geographic differentials in the seamless hosiery industry. The average hourly earnings in the southern state of North Carolina, which is the largest producing state of seamless hosiery, is 38.3 cents per hour, while the average hourly earnings in the northern state of Pennsylvania, which is the second largest state of seamless hosiery, is 37.6 cents per hour. A differential providing a lower wage for the South and a higher wage for the North would not truly represent the conditions prevailing in these two major states. The variations among the other states likewise are not uniform throughout the geographic regions.

Moreover, there is a great variation in hourly earnings between firms in each of the states. For example in North Carolina the midpoint in hourly earnings ranged from 25.9 cents to 44.2 cents in specific firms. In Georgia the median hourly earnings in one firm were 48.1 cents while in another they were 21.3 cents. A range was found in Wisconsin from 30.5 cents to 42.3 cents and in New York from 24.4 cents to 49.7 cents. Thus it is seen that the minimum wage for this industry should make no differentiation on the basis of geographic location.

The testimony of practically all the witnesses indicates that there are very few learners in the seamless hosiery industry. Among the workers, in the study made by the Women's Bureau, only 2.3% are learners. The high standards of workmanship required by the Government specifications, enforced by rigorous inspection, apparently make it inadvisable to employ even the usual number of learners on

Government work. Still, in order to provide for the necessary development of new personnel and the continued employment of superannuated and handicapped workers, it is necessary to provide a tolerance for the employment of workers beneath the established minimum wage. It appears that this may be accomplished adequately for the seamless hosiery industry by permitting a tolerance of 5% of all workers in any one establishment for learners, handicapped and superannuated workers. It was generally agreed that these exempted workers should receive the prevailing piece rate and a minimum of at least 80% of the regular minimum wage. This would call for a minimum wage of 28 cents per hour or $11.20 per week for a 40 hour week. The extent of this tolerance conforms to the present need of the industry on Government contracts; however, it should not be regarded as settled permanently. In order to avoid hardship to employers with newly established plants and at the same time to safeguard the workers against abuse of this exception to the established minimum wage, the Division of Public Contracts should make further studies of this situation so that the Secretary's decision may be supplemented from time to time by appropriate regulations.

Therefore, I hereby determine—

(1) That the minimum wage for employees engaged in the performance of contracts with agencies of the United States subject to the provisions of Public Act No. 846, 74th Congress, approved June 30, 1936, for the manufacture and supply of seamless hosiery, shall be $14.00 per week for a week of forty hours or 35 cents per hour, arrived at either upon a time or piece work basis, and

(2) A tolerance of not to exceed 5% of the workers in any one establishment is hereby granted for those workers who are in fact learners, handicapped or superannuated workers, subject to the conditions that they be paid not less than 28 cents per hour or $11.20 per week for a forty hour week and not less than the piece rates paid to other workers in the same establishment and that they be qualified for such exemption in accordance with such requirements as may be established hereafter.

This determination shall become effective and shall apply to all contracts awarded subject to Public Act No. 846, 74th Congress, on or after August 2, 1937.

Dated this 28th day of July, 1937.

[SEAL] FRANCES PERKINS, *Secretary.*

[F. R. Doc. 37-2415; Filed, July 29, 1937; 12:57 p. m.]

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DECISION OF THE SECRETARY IN THE MATTER OF DETERMINATION OF THE PREVAILING MINIMUM WAGE IN THE WORK GLOVE INDUSTRY

This case is before me pursuant to Section 1 (b) of the Act of June 30, 1936, (Public No. 846, 74th Congress) entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes." At my direction the Public Contracts Board, created in accordance with Section 4 of the said Act by Administrative Order dated October 6, 1936, has been engaged in the consideration of the wages paid in the various garment industries, and on April 21, 1937, it held a public hearing on the prevailing minimum wages in the work glove industry including the manufacture of leather work gloves, leather-palm gloves, all canvas or canton flannel work gloves, knit gloves, woolen knit lined gloves and officers' white cotton gloves.

Invitations to attend this hearing were sent to the twelve trade associations and labor unions and to the forty-five manufacturers listed in the directories of the industry and were extended, through the national press, to all employers and employees interested. Testimony was presented by representatives of the Work Gloves Institute, the National Association of Leather Glove Manufacturers, the Knit Wool Manufacturers, and the International Glove Workers Union, as well as by individual employers and members of the public. A special study was presented by the Women's Bureau and a special brief from the Southern States Industrial Council was received and incorporated into the record. On the basis of all this evidence, the Board has submitted findings of fact and recommendations on the prevailing minimum wage in this industry.

The evidence presented on wages in the work glove industry indicates a prevailing minimum wage both from the concentration of wages in the industry and from the average wage of the low paid workers in the industry. Although there is no concentration of more than a few percent of the workers at any single wage, if the wage distribution is presented in intervals of 10¢ per hour, there appears a concentration of 39% of the workers who earn from 30 to 40¢ an hour. The mid-point in this range, namely 35¢ per hour, is approximately the same as the average wage for the lowest paid workers in the industry. According to the representative of the Work Glove Institute, the unskilled workers, including the receiving, shipping, packing, turning, forming, assembling, inspecting and punching workers, constitute 33% of all the employees of members of the Institute, receive an average wage of 35.5¢ per hour (when computed on a company basis) or 33.4¢ an hour (when computed on an individual, weighted basis). Under the NRA this group was united with the sewers, constituting 62% of all the workers, for the lowest code rate. If a similar combination is made for the present purposes, the evidence of the Work Glove Institute shows an average wage for this basic group of 36.1¢ per hour (when computed on a company basis) or 35.2¢ per hour (when computed on an individual, weighted basis). The testimony submitted by the representative of the knit wool glove manufacturers indicates that in that branch of the industry the average wage earned in the twelve weeks period ending March 1937, by the lower paid workers (excluding those occupational groups earning 40¢ an hour or more) was 35.9¢ per hour. The evidence is therefore ample to support a finding that the prevailing minimum wage in the work glove industry is 35¢ per hour or $14.00 per week for a 40 hour week.

The evidence clearly demonstrates the inadvisability of geographic differentials in the work glove industry. The center of the industry is in the Middle West, specifically in Ohio, Indiana, Illinois and Iowa. A secondary center is found in the eastern states of New York, Pennsylvania, and New Jersey. A few plants of relatively slight production exist in the southern states of Missouri, North Carolina and Tennessee. When the geographic location of these plants are correlated with their wage rates, the result shows a lower rate in the mid-western state of Illinois than in certain southern states and a lower rate in all eastern states than in the mid-western state of Ohio. These actual differences in prevailing wages cannot be expressed in differentials setting off the several sections of the country. Moreover, the government market is essentially the same for all glove producers and a geographic differential is neither necessary nor advisable.

The Women's Bureau reported that approximately 10% of the workers in the glove industry are classed as learners. Many of these receive more than the prevailing minimum wage and the strict standards specified for government work make it necessary to use fewer learners on such work than on the usual commercial orders. A proper tolerance to permit a constant flow of new help to replace those who leave from time to time and to permit the continued employment of handicapped and superannuated workers on government contracts in this industry would appear to be 10% of the number employed in any one establishment. In order to safeguard against abuse of this tolerance, it is necessary to require payment to these workers of the same piece rates paid other workers and of the minimum wage equal to 25¢ per hour or $10.00 per week for a forty hour week. The extent of this tolerance conforms to the present need of the industry on government contracts; however, it should not be regarded as settled permanently. In order to avoid hardship to employers with newly established plants and at the same time to safeguard the workers against abuse of this excep-

tion to the established minimum wage, the Division of Public Contracts should make further studies of this situation so that the Secretary's decision may be supplemented from time to time by appropriate regulations.

Therefore, I hereby determine—

(1) That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of Public Act No. 846, 74th Congress, approved June 30, 1936, for the manufacture or supply of men's work gloves, including the manufacture of leather work gloves, leather-palm cotton gloves, all canvas or canton flannel work gloves, knit gloves, woolen knit lined gloves and officers' white cotton gloves, shall be $14.00 per week for a week of forty hours or 35¢ per hour, arrived at either upon a time or piece work basis, and

(2) A tolerance of not to exceed 10% of the workers in any one establishment be granted for those workers who are in fact learners, handicapped or superannuated workers subject to the conditions that they be paid not less than 25¢ per hour or $10.00 per week and not less than piece rates paid to other workers in the same establishment and that they be qualified to such exemption in accordance with such requirements as may be established hereafter.

This determination shall become effective and shall apply to all contracts awarded subject to Public Act No. 846, 74th Congress, on or after August 2, 1937.

Dated this 28 day of July, 1937.

[SEAL] FRANCES PERKINS, *Secretary.*

[F. R. Doc. 37-2411; Filed, July 29, 1937; 12:56 p. m.]

## FEDERAL POWER COMMISSION.

Commissioners: Frank R. McNinch, Chairman, Clyde L. Seavey, Vice Chairman, Claude L. Draper, Basil Manly, John W. Scott.

[Docket No. IT-5475]

### NEWPORT ELECTRIC CORPORATION CITIZENS UTILITIES COMPANY

ORDER SETTING DATE OF HEARING

Upon joint application of the Newport Electric Corporation and Citizens Utilities Company, with offices at 821 Marquette Avenue, Minneapolis, Minnesota, filed July 19, 1937, pursuant to Section 203 (a) of the Federal Power Act, for approval of the transfer by the former company of all of its property, rights, licenses, and assets to the latter company for the purpose of consolidating the properties, assets, and operations of the two companies, the transferee to assume all the debts and obligations of the transferor;

It is ordered:

That a public hearing on said application be held on August 13, 1937, at 10 a. m., in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

Adopted by the Commission on July 27, 1937.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 37-2405; Filed, July 29, 1937; 9:56 a. m.]

## SECURITIES AND EXCHANGE COMMISSION.

### RULES UNDER PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

RULES AS TO SOLICITATIONS OF PROXIES OR OTHER AUTHORIZATIONS

Rules adopted pursuant to Sections 11 (g) and 12 (e) of the Public Utility Holding Company Act of 1935. Provisions of rules extend to all securities of registered holding companies and subsidiaries, whether or not listed on a national securities exchange existing and future rules pursuant to Section 14 (a) of the Securities Exchange Act of 1934, and also cover solicitation of any proxy, consent, dissent, deposit of a security, or other authorization, in connection with a reorganization of, or reorganization plan for, a registered holding company or subsidiary. Requirements specified as to information to be set forth in applications for reports on reorganization plans and in declarations regarding solicitations.

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Acting pursuant to the Public Utility Holding Company Act of 1935, and particularly Sections 11 (g) and 12 (e) thereof, and finding that such action is necessary and appropriate in the public interest and for the protection of investors and consumers and to prevent the circumvention of the provisions of said Act and the rules, regulations or orders thereunder, the Securities and Exchange Commission hereby adopts the following rules:

RULE 12E-1. *Definitions.*—For the purpose of all rules adopted pursuant to the provisions of Section 11 (g) and 12 (e), the following words and phrases shall have the meanings herein indicated unless the context otherwise requires:

(a) The word "proxy" means any authorization, in whatever manner evidenced or granted, to any person or persons (other than the beneficial owner of the security or claim to which such proxy relates), to represent or act for the owner of a security or claim in connection therewith, whether such authorization is given in connection with a deposit of securities or otherwise and irrespective of whether it constitutes or includes any consent to or dissent from any reorganization plan.

(b) The words "consent" and "dissent" mean, respectively, any act or failure to act, whether by vote or otherwise, by the owner of a security or claim, in evidencing approval or acceptance of, or assent to, or agreement or consent that such owner, or such security or claim, be bound by, a reorganization plan, whether or not such plan has been definitely formulated or proposed and any such action or non-action evidencing disapproval of, or refusal or unwillingness to be bound by such a plan; and such words shall also include the granting of any proxy by any such owner whereby any other person is authorized to give any such consent or dissent on behalf of such owner, irrespective of whether such authorization is unconditional or is conditioned upon the failure of such owner to take affirmative action in connection with such plan after receiving notice thereof or is conditioned upon the happening of any other event or the failure of any other event to occur.

(c) The word "plan" or the term "reorganization plan" means any plan of reorganization of a registered holding company or of any subsidiary of such a company which plan is subject to the provisions of Section 11 (g) of the Act (excluding therefrom any plan of reorganization for a subsidiary company exempt from the provisions of Sections 11 (g) or 12 (e)).

(d) If the Commission shall make a report on any plan or on any declaration with respect to a solicitation and shall thereafter amend the same, the word "report" means such report by the Commission as most recently amended. If the Commission shall make or expressly approve an abstract of any report that it may make on any plan or declaration, such abstract shall thereafter be deemed to be the report of the Commission thereon.

(e) Any of the following persons shall be deemed to have a "bona fide interest" in a reorganization of any company:

(1) such company, any creditor or stockholder thereof, any receiver or trustee of such company and any duly authorized representative of any of said persons;

(2) any trustee under a mortgage, deed of trust or indenture pursuant to which there are outstanding securities which have been issued, guaranteed or assumed by such company;

(3) any State commission having regulatory jurisdiction over the company undergoing reorganization, or any person authorized to prepare a plan by any court, officer or agency before which a reorganization proceeding is pending; and

(4) any other person who is declared by the Commission, in connection with an order for a hearing on an application filed by such person, or otherwise, to have a bona fide interest in such reorganization, including (but

without limitation) consumers, officers, directors, or employees of such company, labor unions, associations and other representatives of such employees.

For the purpose of paragraphs (f) and (g) of Section 11, the words "persons having a bona fide interest" are hereby defined to include the persons described in paragraph (e) of this rule.

RULE 12E–2. *Solicitation of Proxies.*—Except as to a solicitation which is made in compliance with the provisions of paragraphs (b), (d), and (e) of Rule 12E–3, no person shall solicit or permit the use of his or its name to solicit any proxy regarding any security of a registered holding company or a subsidiary of such a company except upon compliance with the provisions of all rules and regulations adopted pursuant to the provisions of Section 14 (a) of the Securities Exchange Act of 1934 that would be applicable to such solicitation if such securities were registered on a national securities exchange; *Provided, however,* that, unless such security is actually registered on a national securities exchange, no documents need be filed with any such exchange in connection with such solicitation.

RULE 12E–3. *Solicitation of Authorization in Connection with Reorganizations.*—(a) No person shall solicit or permit the use of his or its name to solicit any proxy, consent, dissent, deposit of a security or other authorization which relates to or is to be used in connection with a reorganization or a reorganization plan—

(1) except under the circumstances set forth in and in compliance with the provisions of paragraph (b), (c), (d) or (e) of this rule;

(2) except in compliance with all terms and conditions of any order entered by the Commission in connection with such solicitation with respect to the time and manner of solicitation, the classes of securities as to which proxies, consents, dissents or deposits may be solicited, and the terms and conditions of solicitation; and

(3) (unless otherwise required by such an order) except in compliance with all the terms and conditions set forth in any application or declaration filed with the Commission by such person with respect to such solicitation.

No person shall solicit any such authorization in any case if the Commission shall find that the instruments used to evidence such authorization fail to contain fair and equitable provisions for review and determination by a court, commission or other independent person of all fees and expenses that are to be paid or incurred by the estate or by the persons solicited in connection with the reorganization; for the submission of periodic reports and statements of account by the person making such solicitation to those from whom authorization is procured; for prohibition of the buying or selling of securities affected by the reorganization by or on behalf of the person effecting such solicitation or his associates; and for the unconditional right to revoke or cancel such authorizations and, except for cause shown, to withdraw securities from deposit, without expense, at any time before the authorization has been conclusively exercised.

Any employee or agent of any person qualified under the applicable provisions of this rule to solicit an authorization, may solicit or participate or cooperate in soliciting any such authorization in the name of such employer or principal if such employee or agent complies with all other conditions that would be applicable if such employer or principal were to do such act in person. For the purposes of this rule, a person or company which merely acts as depositary or custodian of securities, the deposit of which is solicited by others, shall not be deemed to be an employee or agent of such other persons and shall be under no duty to comply with any provisions of this rule or to ascertain that such other persons have done so.

(b) *Solicitations of a Limited Number.*—Any person may solicit or permit the use of his or its name to solicit any proxy or other form of authorization that is to be used in connection with a reorganization, if the following conditions are satisfied:

(1) such person does not, either alone or in cooperation or conjunction with others, make such solicitation from more than twenty-five owners of securities or claims (or from such larger number as the Commission for cause shown may, by order, authorize in any case); and

(2) if such authorization constitutes a consent to or dissent from a reorganization plan, such solicitation shall not be made unless the Commission shall have made a report on such plan and unless such solicitation is accompanied or preceded by the sending or delivery to the person solicited of a copy of such report.

For the purpose of computing such number of owners, all persons having any legal or beneficial interest in any specific security or claim shall be counted as a single owner.

(c) *Solicitations of Restricted Authorizations.*—Any person may, in anticipation of or in connection with a reorganization, solicit or permit the use of his or its name to solicit any authorization, other than one accompanied by a deposit of securities, *Provided* that each such authorization merely permits or empowers specified persons to represent the owners of securities or claims in connection with the negotiation, formulation or development of a reorganization plan, or to appear before a court, commission or other body in connection with such reorganization or the development of a plan and does not constitute a consent to or dissent from a reorganization plan, and *Provided Further* that the following conditions are satisfied:

(1) each such solicitation shall be accompanied or preceded by the sending or delivery to the person solicited of a statement of (A) the names, addresses and principal business connections of each person making such solicitation and of each person at whose instance or on whose behalf each such person is acting; (B) the interest of each such person in such reorganization plan, including a statement of the amount of securities and claims beneficially owned by each such person which were issued by the company to be affected by such reorganization, by each subsidiary thereof and by each company of which it is a subsidiary; and (C) all plans or arrangements, however tentative, that have been made for the employment of any such persons by any such company or by any successor thereof; and

(2) each such authorization shall expressly provide that it does not constitute and does not authorize any person to give a consent to or dissent from any plan of reorganization and that it is unconditionally revocable at the will of and without expense to the person granting such authorization.

(d) *Solicitations of Consents and Dissents.*—Any person may solicit or permit the use of his or its name to solicit a consent to or dissent from any reorganization plan which has been prepared in writing or a deposit of securities which constitutes a consent to or dissent from such a plan if such solicitation is accompanied or preceded by the sending or delivery to each person solicited of a copy of such plan and a copy of a report of the Commission thereon made pursuant to an application under Rule 12E–4, and if all of the following additional conditions are satisfied:

(1) such person shall have filed a declaration pursuant to Rule 12 E–5 with respect to such solicitation, and the Commission either shall have prepared a report on the letters and other documents that are to be used in connection with such solicitation or shall have advised the declarant in writing that it does not contemplate making such a report;

(2) the first such solicitation of any person and each "follow-up" or supplemental solicitation (except as otherwise provided by paragraph (d) of Rule 12E–5) is accompanied or preceded by the sending or delivery of any report the Commission shall have made in connection with such declaration as then effective and by a letter of solicitation which shall adequately set forth the information required by paragraphs (8) and (9) of Rule 12E–4 with respect to each declarant, their attorneys, accounting,

engineering and financial advisers and of all persons at whose request or on whose behalf each such declarant is acting and, if any such person is a company, with respect to its directors, partners and principal officers; and

(3) each such solicitation is also accompanied or preceded by such forms of proxies, consents and other documents as said declaration or appropriate post-amendments thereof shall describe as the documents to be used for that purpose, and by no other documents.

(e) *Solicitation of Deposits under Special Circumstances.*—Any person desiring to solicit or permit the use of his or its name to solicit a deposit of securities in anticipation of or in connection with a reorganization or proceeding for reorganization may file with the Commission a declaration setting forth such information as is specified in paragraphs (a) and (b) of Rule 12E–5. If the Commission, upon consideration of such declaration, shall find that such deposit is necessary for one or more of the following purposes:

(1) to create an express trust or otherwise to aid the persons desiring to make such solicitation in maintaining actions at law or in equity for the protection of the rights of the owners of such securities; or

(2) to facilitate the collection or distribution of payments expected to be made on account of such securities; or

(3) to facilitate tender of such securities in connection with a contemplated purchase of assets at a judicial or foreclosure sale; or

(4) for any other purpose which the Commission shall find to be in the interest of the holders of the securities to be deposited and not in contravention of the policy of Section 11 (g);

and, if the Commission, by order, shall fix a date upon which such declaration shall become effective, the person or persons filing such declaration may thereafter solicit or permit the use of his or their names to solicit such deposit of securities, subject, however, to the requirements of paragraph (a) of this rule.

RULE 12E–4.—*Applications for Reports on Plans.*—(a) Any person having a bona fide interest (as defined by Rule 12E–1) in a reorganization of a registered holding company or a subsidiary of such a company may apply to the Commission for a report on a reorganization plan for such company which such person has submitted to the Commission in writing. Any number of persons may join in such an application. Every such application shall comply with the provisions of Rule 2 as to number of copies, form and execution. In addition to giving the name and address of each applicant for such report, every such application shall set forth the name and address of the person to whom the Commission should address correspondence with respect to such application; the name and address of the company to be reorganized; and the nature of the bona fide interest of each applicant in the proposed reorganization. A copy of the plan and of the reorganization agreement (if any) should be attached as exhibits. Insofar as applicable to the situation, each such application should also contain: [1]

(1) a description of any proceedings before a court or other governmental body in connection with such reorganization, giving the date when such proceedings were instituted and describing briefly the history and present status thereof;

(2)—

(A) financial statements of the company and its subsidiaries as of the most recent date available

(B) earnings and surplus statements of the company and its subsidiaries as shown by their books for the five fiscal years next preceding the date of the application

(C) pro forma balance sheets and earnings statements giving effect to the proposed transactions and to any adjustments proposed to be made in the accounts of the reorganized company;

(3) a brief description of the classes, amounts and rights of the owners of securities and of any substantial undisputed claims against such company, and of all changes in such rights to be effected by such plan;

(4) a statement as to the nature of any substantial presently existing claims or actions (A) against the company and (B) on behalf of the company or the holders of its securities against any other person, (other than those referred to in paragraph (3) above) and as to the results of any investigations made by or for the applicants and of any significant investigations by courts, trustees, State commissions, or other bodies or persons that are available to applicants concerning the existence and validity of such claims, and the recommendations of the applicants with respect to the appropriate action to be taken in connection therewith;

(5) a statement of the nature and results of any important investigations made by or for the applicants as to the recent or present condition, adequacy or efficiency of the properties, operations, rates, management, accounting practices, depreciation, financial and other policies of such company and its subsidiaries; a statement of any important changes in such respects that are expected to result from or to follow the proposed reorganization; and a citation of any important public or private reports on any such matters that are known by the applicants to have been made within five years prior to the filing of the application;

(6) a statement of the reasons why the present is deemed to be an appropriate time to effect the proposed reorganization;

(7) a statement as to the history of the formulation and negotiation of the plan and the reasons why the applicants deem it to be fair and equitable, including a statement as to the estimates of future earnings and requirements of further capital for improvements, extensions and other corporate purposes that were used in formulating the plan; the reasons for selecting the types of new securities to be issued and the consideration that has been given to the requirements of paragraphs (c) and (d) of Section 7; the principles on which such securities were allocated among the owners of outstanding securities and claims; and the extent to which such plan will effect or aid in the ultimate simplification of the corporate structure of the holding company system of which such company is a member and in carrying out the other purposes of Section 11 (b);

(8) a comprehensive statement giving the names and addresses of all persons (including, in the case of a company plan, the officers and directors of such company) who were primarily responsible for the preparation and negotiation of the plan and the class of securities or claims represented by each, the names and addresses of the persons at whose request or on whose behalf each such negotiator was acting and the names of their important legal, accounting, engineering and financial advisers, all important relations now existing or which have existed within five years prior to the date of such application between all such persons and the company to which the plan relates, every subsidiary thereof and every company of which it is a subsidiary, whether as officers, directors, underwriters or otherwise (if any such person does not purport to be an independent representative of a single class of securities or claims, a general statement of his position and relationships may be substituted for the data above specified in this subparagraph); the amounts of each class of securities of and claims against each such company that were beneficially owned by each such person as of a date not more than twenty days prior to the filing of the application, and a list, by individuals, giving the applicant's best information as to all purchases and all sales of such securi-

[1] Note: The information specified herein need be given only insofar as known or reasonably available to the applicants and in such detail as is necessary to explain the statements made and the purpose thereof. In respect of any specific information so given, the applicants may state that it is incomplete or may disclaim responsibility for the accuracy thereof.

ties, within a period of three years prior to the filing of the application, in which any such person had a beneficial interest, the prices at which each such purchase and sale was made and a statement as to the nature of the investigations made in connection with the preparation of such list and the basis for the information therein contained;

(9) a statement as to the amounts that each person described in item (8) above (including attorneys and other principal advisers) have already received as compensation and expenses for their services in connection with such reorganization and solicitation; the principles or bases on which further compensation of such persons will be determined, including, in so far as practicable, the rates per hour or per day that will be charged or requested for the services of such persons and the respective classes of their employees, together with estimates of the maximum amount of time such respective classes of service will consume; the sources from which such compensation has been, and such further compensation is to be received; a statement of any agreements or understandings between firms of attorneys, accountants or other experts with respect to division of their respective fees; a statement as to whether the amounts of any further compensation are to be subject to determination or review by any court, governmental agency or independent person; and a statement of all agreements, understandings or arrangements that have been entered into by or with any such person, his attorneys or other principal advisers with respect to future employment, underwritings and similar matters; *Provided*, that in the case of a plan of reorganization to be submitted by a company to its security holders, which is not proposed in connection with or in anticipation of any court proceeding, estimates in reasonable detail, showing the aggregate fees and expenses to be incurred in connection with such plan may be substituted in lieu of the above information;

(10) the names and addresses of any committees and any holders of substantial amounts of securities or claims who have indicated opposition to the proposed plan;

(11) a statement as to the willingness of the applicants to mail notice of the Commission's public hearing on the application to the holders of securities and claims affected by the plan, and as to the access of the applicants to lists of holders of any such securities payable to bearer; and

(12) such other and further information as the Commission may require to be supplied by amendment.

Attach as an exhibit an opinion of counsel stating whether any courts, State commissions or other governmental bodies are required to pass upon the transactions to be carried out pursuant to the proposed plan, giving the status of any proceedings then pending before any such bodies and expressing an opinion as to whether, upon the taking of specified further steps, the plan will become binding upon owners of securities of and claims against the company, who do not consent thereto. Such opinion shall cite the relevant constitutional, statutory and charter provisions and the controlling court decisions, if any, with respect to the jurisdiction of such bodies and with respect to the conditions upon which the plan will become binding upon the owners of securities of and claims against the company who do not consent thereto.

(b) Any such application for a report on a reorganization plan may include as a part thereof such additional statements as are required by Rule 12E–5 for a declaration by the applicants in respect of a solicitation of proxies, consents, dissents or requests for the deposit of securities, in connection with such plan and every application containing such statements shall be deemed to constitute both an application under this rule and a declaration under said Rule 12E–5.

RULE 12E–5.—*Declarations as to Solicitations.*—(a) Every declaration with respect to a solicitation that is filed pursuant to a requirement of Rule 12E–3 shall comply with the provisions of Rule 2 as to number of copies, form and execution. Any number of persons may join in such a declaration. Every such declaration shall set forth the following information (except that a declaration which is incorporated in an application pursuant to Rule 12E–4 need not repeat any information given elsewhere in such application):

(1) the names and addresses of the declarants, their attorneys, accounting, engineering and financial advisers, and of all persons at whose request or on whose behalf each such declarant is acting;

(2) the name and address of the person to whom communications from the Commission with respect to such declaration shall be addressed;

(3) the class of securities and claims to be solicited, with a brief identification of the company and of the proceeding or plan with respect to which such solicitation relates;

(4) the information described in paragraphs (8) and (9) of Rule 12E–4 with respect to each of the persons described in clause (1) of this paragraph and, if any such person is a company, with respect to each of its directors, partners and principal officers;

(5) a copy of the first letter of solicitation to be used, which shall comply with the requirements of subparagraphed (d) (2) of Rule 12E–3, together with copies of any supplementary or "follow-up" letters declarants may desire to incorporate in their original declaration;

(6) copies of all other documents (except reports of the Commission) that are to be used in connection with the first letter of solicitation, including the text of any radio broadcasts, together with copies of all deposit agreements or other instruments evidencing the terms and conditions upon which any deposits of securities are to be made;

(7) a description of the order, arrangement and style in which the documents described in clauses (5) and (6) above are to be sent to owners of securities or claims, and particularly the size, style of printing and position to be given to all reports of the Commission to be used in connection with such solicitation;

(8) a full statement as to the manner in which declarants will make such solicitations and, if any persons are to be used to make personal, oral or radio solicitations, a statement as to whether such persons are regular employees of the declarants or are to be specially hired for such solicitation and, in sufficient detail, all bonuses or special compensation to be paid to regular employees and the maximum compensation and costs that will be paid to persons who are not regular employees;

(9) a statement as to whether the documents of solicitation described in clauses (5) and (6) of this paragraph are to be sent or delivered to each owner of securities or claims prior to the time of any personal or oral solicitation and, if so, the minimum amount of time which will thus be afforded such owner to study such documents prior to any such solicitation.

(b) Every declaration with respect to a solicitation of deposits of securities made pursuant to paragraph (e) of Rule 12E–3 shall also set forth (A) the special circumstances which make it necessary or desirable that the deposit of such securities shall be solicited without such solicitation being accompanied by a report of the Commission on the reorganization plan; (B) the rights and privileges to be given to the declarants, their depositary or any other agents or representatives thereof to sell, pledge or hypothecate the deposited securities or to have or create a lien thereon and to receive compensation or expenses for their services; as well as all limitations on liabilities to which any such persons would otherwise be subject; and (C) all conditions or restrictions on the right to deposit or the right of depositors to withdraw their securities from deposit.

(c) Post-amendments incorporating new material, including the text of any supplementary or follow-up letters of solicitation, any changes that are to be made in the methods of solicitation, information as to new persons who are to join in the solicitation, or any other appropriate data, may be filed at any time after a declaration has become effective under any provision of Rule 12E–3. Every declaration as

thus post-amended shall become effective at the end of the fifteenth day after the date of the filing of the latest post-amendment (not including the date on which such filing is made), unless, prior to the expiration of such period, the Commission, by sending a letter, confirmed telegram or otherwise, shall notify the person to whom communications with respect to such declaration are to be sent that it desires to make a report on such amended declaration or to amend a report which it has previously made in connection therewith or, in the case of a declaration required by paragraph (e) of Rule 12E–3, that it desires to amend its order making such declaration effective. The Commission, for sufficient cause shown, may, in any case, by order, shorten such period of fifteen days.

In any case in which the Commission shall give such notice as aforesaid, a post-amendment of a declaration shall not become effective until after the Commission shall have prepared and issued a report or an amended report on such declaration as thus amended or, in lieu thereof, shall have advised the declarants in writing that it does not contemplate taking such action or, in the case of a post-amendment to a declaration required by paragraph (e) of Rule 12E–3, shall not become effective until the Commission shall have amended its order with respect to such original declaration so as to make such declaration effective as thus post-amended.

(d) Any person who shall have solicited or permitted the use of his or its name to solicit a consent, dissent or deposit of securities in compliance with the requirements of the applicable rules of the Commission and who shall, in response to such solicitation, receive a specific inquiry asking for further explanation as to any detail of such solicitation, may reply thereto and no such reply need be incorporated in any declaration or any post-amendment to such declaration required by said rules.

No such post-amendment need be filed by any such person with respect to any supplementary or follow-up letters which merely calls attention to a prior solicitation made in accordance with the requirements of Rule 12E–3 and urges action in accordance with such prior request but does not set forth any financial or other data, information or representations.

AMENDMENT TO RULE EXEMPTING CERTAIN NON-UTILITY SUBSIDIARIES

Amendments to rule exempting certain non-public utility subsidiaries of registered holding companies increase scope of exemption from Sections 12 and 13, and as to acquisitions from wholly-owned subsidiaries and from companies undergoing reorganizations; exemption as to Sections 11 (f), 11 (g), and 12 (e) and rules thereunder, more closely defined.

Acting pursuant to the authority granted by the Public Utility Holding Company Act of 1935, and particularly Section 3 (d) thereof, and finding such action necessary and appropriate in the public interest and for the protection of investors and consumers, and not contrary to the purposes of said Act, the Securities and Exchange Commission hereby amends Rule 3D–5 to read as follows:

RULE 3D–5. *Exemption of Certain Non-Utility Subsidiaries.*—(a) Except as otherwise provided in the subsequent paragraphs of this rule, every subsidiary company of a registered holding company which subsidiary company is not

(1) a holding company,
(2) a public utility company,
(3) an investment company or investment trust, including one which is a medium for investments in securities for the benefit of a public-utility or holding company or its directors, officers or employees,
(4) a company engaged in the business of performing services or construction for or selling goods to associate companies of any of the classes specified in clauses (1) to (3) above, or
(5) a company controlling, directly or indirectly, any company specified in clauses (1) to (4) above,

shall be exempt from the obligations, duties and liabilities imposed upon such company as a subsidiary company by any provision or provisions of the Act and, within the extent of the exemptions provided by this rule, such a company shall not be deemed to be a subsidiary or affiliate of any other company.

(b) The exemption provided from Section 9 (a) (1) by paragraph (a) of this rule shall not be applicable

(1) to an acquisition of utility assets or to an acquisition of securities of any company described in clauses (1) to (5), inclusive, of paragraph (a) of this rule, or to an acquisition of any other interest in the business of such a company, or to any acquisition which will result in such a subsidiary company becoming a company of a type described in any one of such clauses; or

(2) to the acquisition of any property or right (whether acquired in a single transaction or in a series of transactions) if the total consideration paid or to be paid therefor has a value in excess of $200,000, except that the exemption shall be applicable, without regard to the amount of the consideration,

(A) to any acquisition by such a subsidiary company from another company substantially all of whose outstanding securities it owns; and

(B) to any acquisition which such a subsidiary company may make as a result of the reorganization of another company solely because of its surrender of securities of and claims against the company being reorganized which were previously held by such acquiring company.

(c) The exemptions provided from Sections 11 (f), 11 (g) and 12 (e) by paragraph (a) of this rule shall extend to any rules adopted under such sections but no exemption from such sections or rules shall be applicable to any reorganization of or reorganization plan for any such subsidiary company if such reorganization or plan provides that any associate company of such a subsidiary shall increase its investment in, or shall advance money to, or shall assume or guarantee any debt owing or to be incurred by such subsidiary company or the company which, in accordance with the terms of such reorganization or plan, will become its successor.

(d) If any rule, regulation or order adopted under Sections 12, 13 or 15 or under any other section of the Act shall expressly provide that it shall be applicable to such a subsidiary company, the exemption that would otherwise be provided by this rule shall, to that extent, cease to exist.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37–2407; Filed, July 29, 1937; 12:31 p. m.]

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*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 24th day of July, 1937.

IN THE MATTER OF GUARANTY TRUST COMPANY OF NEW YORK, AMERICAN DEPOSITARY RECEIPTS REPRESENTING ORDINARY REGISTERED SHARES OF ANGLO IRANIAN OIL COMPANY, LIMITED

ORDER CONTINUING UNLISTED TRADING PRIVILEGES PURSUANT TO SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND RULE JF2 (B)

The New York Curb Exchange, having made application for unlisted trading privileges under Rule JF2 (b) in the Guaranty Trust Company of New York, American Depositary Receipts representing ordinary registered shares of Anglo Iranian Oil Company, Limited; and

It appearing to the Commission that, within the meaning of said rule, said security is substantially equivalent to the Guaranty Trust Company of New York, American Depositary Receipts representing ordinary registered shares, one pound par sterling, of Anglo Iranian Oil Company, Limited, a security admitted to unlisted trading privileges on such exchange;

It is ordered, that said application for unlisted trading privileges in the Guaranty Trust Company of New York, American Depositary Receipts representing ordinary registered shares of Anglo Iranian Oil Company, Limited, be and is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37–2408; Filed, July 29, 1937; 12:31 p. m.]

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*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 28th day of July, A. D., 1937.

[File No. 43-67]

IN THE MATTER OF THE KANSAS ELECTRIC POWER COMPANY

ORDER FIXING DATE FOR DECLARATION TO BECOME EFFECTIVE UNDER SECTION 7 OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

The Kansas Electric Power Company, a subsidiary company of The Middle West Corporation, a registered holding company, having duly filed with this Commission a declaration, and an amendment thereto, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue by declarant of $500,000 principal amount of First Mortgage Bonds, Series A, 3½%, due December 1, 1966, and the sale thereof to The Travelers Insurance Company, for investment, at a price of 91⅜, for the purpose of raising new money to enable declarant to pay for property additions; a hearing on said declaration having been duly held after appropriate notice;[1] the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered that said declaration be and become effective on July 28, 1937, upon condition, however, that the issue and sale of said bonds shall be effected in compliance with the terms and conditions of, and for the purposes represented by, said declaration.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-2410; Filed, July 29, 1937; 12:32 p. m.]

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*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of July, A. D., 1937.

[File 43-66]

IN THE MATTER OF LONE STAR GAS CORPORATION AND LONE STAR GAS COMPANY

[Public Utility Holding Company Act of 1935—Section 7]

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE PURSUANT TO SECTION 7 OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Lone Star Gas Corporation, a Delaware corporation and a registered holding company, and Lone Star Gas Company, a Texas corporation and a subsidiary of Lone Star Gas Corporation, having duly filed with this Commission a declaration, and amendments thereto, pursuant to Section 7, of the Public Utility Holding Company Act of 1935, regarding the issue and sale of negotiable unsecured bank loan notes by Lone Star Gas Corporation in the principal amount of $10,000,000 and by Lone Star Gas Company in the amount of $6,000,000, the notes to be issued by Lone Star Gas Corporation to mature in semi-annual installments aggregating $800,000 each from February 1, 1938, to and including February 1, 1942, and in a final installment of $2,000,000 on August 1, 1942, and to bear interest at rates beginning at 1¾% for the first installment and increasing to 4% for the February 1 and August 1, 1942 installments; and the notes to be issued by Lone Star Gas Company to mature in semi-annual installments aggregating $450,000 each from February 1, 1938 to and including February 1, 1942, and in a final installment of $1,950,000 on August 1, 1942, and to bear interest at rates beginning at 2% for the first installment and increasing to 4½% for the February 1 and August 1, 1942 installments; said notes to be issued by Lone Star Gas Corporation and Loan Star Gas Company to the several banks and in the amounts, respectively, as follows:

| | The Union Trust Company of Pittsburgh | The Chase Nat'l Bank of the City of New York | The Mellon Nat'l Bank of Pittsburgh | The Farmers Deposit National Bank | The Union Savings Bank of Pittsburgh |
|---|---|---|---|---|---|
| Lone Star Gas Corporation | $5,700,000 | $2,500,000 | $1,000,000 | $600,000 | $200,000 |
| Lone Star Gas Company | 3,420,000 | 1,500,000 | 600,000 | 360,000 | 120,000 |

A hearing on said declaration, as amended, having been duly held after appropriate notice,[1] the record in this matter having been examined and the Commission having made and filed its findings herein;

It is ordered that said declaration, as amended, be and become effective forthwith on condition that the issue and sale of said notes be effected by said declarants in substantial compliance with the terms and conditions and for the purposes represented by said amended declaration; and

It is further ordered that, within ten days after the issue and sale of said notes the declarants shall file with this Commission a certificate or certificates of notification, showing that such issue and sale have been effected in accordance with the condition of this order.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-2409; Filed, July 29, 1937; 12:31 p. m.]

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UNITED STATES TARIFF COMMISSION.

[Docket No. 11 Section 337, Tariff Act of 1930]

INVESTIGATION DISCONTINUED AND DISMISSED

CIGAR LIGHTERS

*Public Notice*

In the Matter of Investigation of Alleged Unfair Methods of Competition or Unfair Acts in the Importation or Sale of Cigar Lighters

It is hereby ordered by the United States Tariff Commission on this 27th day of July 1937, that the investigation heretofore, on August 14, 1936,[2] instituted pursuant to the provisions of Section 337 of the Tariff Act of 1930 into alleged unfair methods of competition or unfair acts in violation of said section in the importation or sale in the United States of cigar lighters made in accordance with the terms of United States Letters Patent Nos. 1,986,384, 2,002,845 and Des. 96,639, or in simulation of such lighters, as extended on January 16, 1937[3] to include cigar lighter and cigarette case combinations made in accordance with the terms of United States Design Patent No. 81,823, or in simulation of such combinations, be, and the same is hereby, *discontinued and dismissed*, in accordance with the President's rescission of the temporary order of exclusion dated November 9, 1936.[4]

Ordered further that public notice of this action shall be given by posting announcement thereof for thirty days at the office of the Commission in the City of Washington, D. C., and at the office of the Commission at the Port of New York, and by publishing the text thereof in "Treasury Decisions", published by the Department of the Treasury, and by announcement thereof in "Commerce Reports", published by the Department of Commerce.

By order of the United States Tariff Commission this 27th day of July, 1937.

[SEAL] SIDNEY MORGAN, *Secretary.*

[1] 2 F. R. 1372 (DI).
[2] 1 F. R. 1865, 2183.
[3] 2 F. R. 133 (DI).
[4] 1 F. R. 1979.

[F. R. Doc. 37-2404; Filed, July 29, 1937; 9:36 a. m.]

[1] 2 F. R. 1444 (DI).